IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 2546 of 1996

Between:

Manager
The Chittoor Dist. Co.Op Marketing Society Limited,Rep. By its Business Manager, Chittoor Dist

... PETITIONER

AND

1 The Presiding officer, Industrial Tribunal cum Labour court, Anantapur
2 P.Damodaran Chetty (Died), 7/36, Krishmaiah Chety Street, Satyaveedu,

Chittoor Dist
3 P.Muniratnam son of P.Damodaram Chetty
C/o 7/36, krishnaiah Chetty Street, Satyaveedu, Chittoor Dist
4 P.Krishna Murthy son of P.Damodaran Chetty
7/36, Krishmaiah Chety Street, Satyaveedu, Chittoor Dist
5 P.Sudhakar son of P.Damodaram Chetty
C/o 7/36, krishnaiah Chetty Street, Satyaveedu, Chittoor Dist
6 P.Sreenivasulu son of P.Sree Ramulu
C/o 7/36, krishnaiah Chetty Street, Satyaveedu, Chittoor Dist
7 P.Padmamma W/o P.Domodaram Chetty
C/o 7/36, krishnaiah Chetty Street, Satyaveedu, Chittoor Dist
8 P.Bhagya Laxmi W/o P.Thyagarajan
7/36, Krishmaiah Chety Street, Satyaveedu, Chittoor Dist
9 G.Gowri W/o G.Mohan,7/36, Krishmaiah Chety Street, Satyaveedu, Chittoor
10 M.Prameela son of P. Damodaram Chetty
7/36, Krishmaiah Chety Street, Satyaveedu, Chittoor Dist
(R2 ,7, 9 & 10 dismissed for default as per Court order dt. 23/03/2000)

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more in the nature of Certiorari calling for the record relating to the impugned award dated 30/995 in ID.no. 208/89 before the 1st Respondent and to quash the same and illegal and arbirtary

Counsel for the Petitioner: MR.M.V.PRATAP REDDY
Counsel for the Respondent No.1: GP for Labour
Counsel for the Respondent No.3: MR. P.JAGADISH CHANDRA PRASAD
Counsel for the Respondents No.4, 5, 6 & 8: None Appeared

The Court made the following Order:

ORDER:

The second respondent herein joined the services of the petitioner-society as an Assistant Godown Inspector in the year 1962. He was transferred to various units of the petitioner-society and while working at Madanapally he was placed under suspension pending enquiry on 15.01.1972. Charges to process a departmental enquiry against him were framed and communicated to him on 28.01.1972. After submitting his explanation, the employee aggrieved by the non-payment of wages/subsistence allowance, filed MP No.38 of 1979 before the Labour Court, Guntur, claiming wages from 01.11.1971 to 30.09.1978, as his suspension was neither revoked nor any disciplinary action taken against him. In the counter filed in MP No.38 of 1979, the writ petitioner management stated that the suspension order of the workman was revoked by an order dated 15.12.1972, the workman was asked to report for duty and that his services were terminated by an order dated 20.01.1973. On the ground that the workman's services were already terminated MP No.38 of 1979 was rejected by the Labour Court, Guntur on 22.11.1985. Aggrieved, the workman filed WP No. 12010 of 1986 before this Court assailing the negative award by the Labour Court in MP No.38 of 1979. This writ petition was disposed of enabling the workman to raise an Industrial Dispute. He filed ID No.208 of 1989 before the Labour Court, Anantapur, under Section 2-A (2) of the Industrial Disputes Act, 1947 assailing his termination dated 20.01.1973. Pending disposal of the industrial dispute the second respondent-workman passed away and his legal representatives-respondents 3 to 10 herein were brought on record. By the award dated 30.09.1995 the Industrial Tribunal-cum-Labour Court, Anantapur, passed award in ID No.208 of 1989. The Tribunal invalidated the order of termination of the workman from service but rejected the claim for continuity of service. However, on a cogent and rational consideration of all the facts and circumstances, the Tribunal directed reinstatement of the workman without

continuity of service and proportionate subsistence allowance on the wages at Rs.191/- per month from the date of suspension till the date of filing of the counter affidavit in MP No.38 of 1979 on the file of the Labour Court, Guntur i.e., 31.12.1979. The Industrial Tribunal-cum-Labour Court also declared and directed the writ petitioner to pay a consolidated compensation amount of Rs.15,000/- in view of the back wages of the workman from the date of filing the counter affidavit in MP No.38 of 1979 till the date of his death.

The petitioner seeks to challenge the award of the Labour Court on a singular ground viz., that even if the second respondent workman were to be in actual and regular service of the writ petitioner-society, he would have attained the age of superannuation on 31.07.1980 and that since he died in the year 1995 well beyond his normal age of superannuation, even if reckoned as regular workman, the award of the Labour Court to the extent of computing consolidated compensation amount at Rs.15,000/-, as the amount payable till the date of workman's death in the year 1995, is illegal. The plea that the second respondent workman would have attained the age of superannuation on 31.07.1980 or the age of superannuation of that category of employees in the writ petitioner-society is a specified age has nowhere been pleaded before the Tribunal of the first instance of the Labour Court, Anantapur. This writ petition is in the nature of Certiorari directed against the record of the Tribunal below.

As no material has been placed before the Tribunal on the aspects urged in this writ petition at the hearing, there could be no question of error apparent on the face of the record requiring correction in Certiorari. Even otherwise the second respondent workman has died in the year 1995 and a consolidated compensation of Rs.15,000/- has been granted to the benefit of his legal representatives by the Labour Court while declining the benefits of continuity of service. During his life time the second respondent could not secure the benefits of the litigation nor could he be restituted for the writ petitioner's illegal act of termination of his services.

On a conspectus of all the facts and circumstances of the case, this Court

does not consider it an appropriate case for interference either on law, facts or equity. Writ Petition is without merits; requires rejection and is accordingly dismissed.

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(GODA RAGHURAM, J)

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July 30, 2004

Dsk/Pvks

To

1. The Presiding Officer, Industrial Tribunal-cum-Labour Court, Anantapur.
2. Two CCs to GP for Labour, High Court Buildings, Hyderabad.
3. Two CD Copies.